

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMARY SUIT NO.1780 OF 2004

Dinesh Sesmal Parmar .. Plaintiff
versus
Kashinath Malji Vetkoli & Anr, .. Defendants

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Mr.K.C. Pande i/b R.M.. Tiwarii for the plaintiff.
None for the defendants.

CORAM : D.G. KARNIK, J.

DATED : 13th April 2005.

P.C.:

1. Heard the learned counsel for the plaintiff.
None present for the defendant no.1. The plaintiff
has not taken steps for re-service of the writ of
summons on the defendant no.2. Hence, suit against
defendant no.2 is dismissed under Order 9 Rule 5 of
the Code of Civil Procedure.

2. Perused the affidavit of service dated
25th/25th October 2004 proving service of writ of
summons on the defendant no.1. Despite service,
defendant no.1 has not filed an appearance.

3. The plaintiff has filed on record original documents along with a list and the affidavit proving the documents. The plaintiff granted loan of Rs.2,50,000/- to the defendants who executed a promissory note. The defendants also gave to the plaintiff a cheque for Rs.2,50,000/-. However, the same was dishonoured when presented for payment. Despite demand, the defendants failed and neglected to make the payment. Hence, plaintiff is entitled to a decree against defendant no.1 on whom the writ of summons is served.

4. The plaintiff is also entitled to a decree under Order 37 Rule 2(3) of the Code of Civil Procedure.

5. For these reasons, the suit of the plaintiff is decreed against defendant no.1 as follows:-

6. The defendant no.1 shall pay to the plaintiff a sum of Rs.2,50,000/- together with interest therein at 12% p.a. from the date of the suit till payment and all costs of the suit. Suit against defendant no.2 is dismissed.

D.G. KARNIK, J